

REMARKS

The application has been reviewed in light of the Final Office Action mailed September 9, 2004. At the time of the Final Office Action, Claims 1, 3-10, 13, and 14 were pending in this application. Applicant previously cancelled Claims 11, 12 and 15-36 without prejudice or disclaimer due to an election/restriction. Claims 1, 3-10, 13 and 14 were rejected. Applicant amends Claim 1.

Amendments to the Specification

No new matter has been added to the specification. Original claim 10 of the application read: "The array of claim 1, wherein the mean pore diameter of the porous material is greater than about 10 microns."

Claim Rejections Under 35 U.S.C. §103

Claims 1, 3-10, 13 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Glazer et al.'s "*High Surface Area Substrates for DNA Arrays*" in Materials Research Society Symposium Proceedings ("Glazer et al.") and U.S. Patent 5,629,186 issued to Robert D. Yasukawa et al. ("Yasukawa et al."). Applicant respectfully traverses and submits the cited prior art does not render the subject matter of amended Claim 1 obvious. Claim 1 has been amended to emphasize that the presently claimed embodiment of the invention is directed to a "high throughput screening array," not just to an array. In furtherance of this emphasis, Applicant has amended Claim 1 to specify that the porous material has a mean pore diameter greater than about 10 microns, and a density greater than about 6 pounds per cubic foot. These limitations relate to the high throughput characteristic of the claimed array. Neither Glazer et al. nor Yasukawa et al. disclose and/or suggest such a porous material for a high throughput array. For example: (1) Glazer et al. teaches, "Pore dimensions were measured directly from the images as 0.1 to 0.3 microns;" and (2) Yasukawa et al. teach nothing in relation to "pore dimensions." The Examiner notes that Yasukawa teaches silica fibers having "diameters between about 5 to 20 μm ." This statement does not teach a porous material having a "mean pore diameter of at least about 10 microns."

And as noted, the presently claimed embodiment of the invention is directed to a high throughput screening array material having a density "greater than 6 pounds per cubic foot." It is respectfully submitted that a full reading of Yasukawa et al. leads to the conclusion that the material described therein has a density ranging from about "3.5 and 5.5 pounds/ft³." Indeed, Yasukawa et al. state in the "Summary of the Invention":

The matrix is characterized by . . . (b) a density of between about 3.5 and 5.5 pounds/ft³ . . .

(Col. 1, lines 29-30).

The slurry is allowed to settle under conditions effective to produce a fiber block having a selected fiber density between about 3.3 and 5.3 pounds/ft³.

(Col. 2, lines 9-11)

The target density of the matrix after drying is between 3.3 to 5.3 pounds/ft³.

(Col. 8, lines 7-9)

The matrix is then heated to progressively higher temperature . . . until a desired fusion and density are achieved, the target density being between 3.5 and 5.5 pounds/ft³.

(Col. 8, line 65 - Col. 9, line 3)

The target density of the matrix after drying is between 3.3 to 5.3 pcf.

(Col. 14, lines 50-51)

The dried matrix was sintered about 2200°F . . . to achieve fired densities between 3.3 to 5.5 pcf.

(Col. 14, lines 53-56)

And Yasakawa's Claim 1 claims:

"(b) a density of between about 3.5 and about 5.5 pounds/ft³ . . ."

Yasukawa's Claim 6, dependent on Claim 1, claims:

. . . prepared by heating a fiber block . . . having a density between about 3.3 and 5.3 pounds/cubic feet . . .

And finally, as referred to by the Examiner, Claim 8 states:

8. The matrix of claim 1 having in one matrix dimension, a matrix gradient progressing between a selected density 3.5-5.0 pounds/ft³ to a selected density 5.5 to 12 pounds/ft³.

Thus, Yasukawa, et al. teach that their material must include a matrix having a density of 3.5 to 5.5 pounds/ft³, and preferably the entire matrix has a density ranging from 3.5 to 5.5 pounds/ft³. Even Claim 8, previously referenced by the Examiner, requires that the matrix contain a specific portion having a density at or below 5.5 pounds/ft³. Indeed, Claim 8, while not supported by the Yasukawa et al.'s specification, is dependent on Claim 1 which requires "(b) a density of between 3.5 and 5.5 pounds/ft³." Whereas, the presently claimed embodiment of the invention is directed to a porous material having a density of "greater than 6.0 pounds per cubic foot." Consequently, Applicant respectfully submits that amended Claim 1 is patentable over the art of record. Claims 3, 4, 7-10, 13 and 14 depend from amended Claim 1 and thus, it is respectfully submitted they are also patentable over the art of record. Consequently, Applicant requests withdrawal of the rejection and allowance of Claims 1, 3, 4, 7-10, 13 and 14.

Claims 1, 3-10, 13 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,959,098 issued to Martin Goldberg et al. ("Goldberg et al.") and Yasukawa et al. Applicant respectfully traverses and submits the cited art does not render the claimed subject matter obvious. Yasukawa et al. is cited by the Examiner for the same reasons that Yasukawa et al. was cited in the Glazer et al./Yasukawa et al. rejection. For the same reasons stated previously, Applicant respectfully submits amended Claim 1 is non-obvious in light of Goldberg et al. and Yasukawa et al.

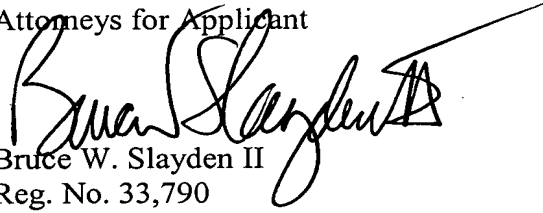
CONCLUSION

In light of the above amendments and remarks Applicant respectfully submits that the application is now in condition for allowance and early notice of the same is earnestly solicited. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone or facsimile.

Applicant encloses a Request for Continued Examination Transmittal and a check in the amount of \$790 for the filing fee. Applicant also encloses a Petition for Extension of Time (2 months) and a check in the amount of \$225 for the extension fee. Applicant believes no other fees are due at this time, however, the Commissioner is hereby authorized to charge any fees to Deposit Account No. 50-2148 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant


Bruce W. Slayden II
Reg. No. 33,790

Date: 2/9/2005

Correspondence Address:

Customer Number **31625**
512.322.2606 (phone)
512.322.8306 (fax)